

**COLLATERAL ASSIGNMENT OF DEVELOPMENT AGREEMENT  
AND TAX INCREMENT FINANCING NOTE**

This Collateral Assignment of Development Agreement and Tax Increment Financing Note (this “**Assignment**”) is made and entered into as of February 12, 2019, by DONEFF’S SCHUETTE BUILDING LLC, a Wisconsin limited liability company (“**Borrower**”), in favor of INVESTORS COMMUNITY BANK, a Wisconsin-chartered banking corporation (“**Lender**”). Capitalized terms used herein without specific definition shall have the meanings given to them in the Development Agreement (as hereinafter defined).

A. Borrower is acquiring and rehabilitating the existing Schuette building located at 914 South 8<sup>th</sup> Street in the City of Manitowoc, into approximately 37,200 square feet of mixed-use space in accordance with the Plans (the “**Project**”), located on real property in Manitowoc County, Wisconsin, as more specifically described on Exhibit A hereto.

B. On March 15, 2018, Borrower the City of Manitowoc, Wisconsin (the “**City**”) entered into a Development Agreement for the real property (the “**Development Agreement**”). To assist Borrower in financing the project, the Lender has lent, or agreed to lend, to the Borrower a series of loans in the aggregate principal amount of up to \$5,470,735 (the “**Loans**”), to be repaid with interest thereon, as evidenced by (i) that certain Promissory Note (Construction Loan) in the original principal amount of up to \$2,675,000 (the “**Construction Note**”), (ii) that certain Promissory Note (TIF Loan) in the original principal amount of up to \$540,000 (the “**TIF Loan Note**”), and (iii) that certain Promissory Note (Federal HTC Bridge Loan) in the original principal amount of up to \$2,255,735 (the “**Federal HTC Bridge Note**” and, collectively with the Construction Note and TIF Loan Note, the “**Borrower Notes**”) which Loans are the subject of a Loan Agreement of even date herewith by and between the Borrower and the Lender (the “**Loan Agreement**”).

C. Pursuant to the Development Agreement, the City will issue its Tax Increment Revenue Note (the “**TIF Note**”) in the principal amount of \$540,000 to Borrower, as the holder thereof, to reimburse Borrower for up to \$540,000 in Public Redevelopment Costs (as defined in the Development Agreement) associated with the construction of the Project from tax increment revenues generated from the Project.

D. Lender has required, as a condition to making the Loans, that Borrower execute and deliver this Assignment to Lender and that City acknowledge and consent to this Assignment.

NOW, THEREFORE, in consideration of the foregoing and in order to induce Lender to make the Loans, Borrower agrees as follows:

1. Assignment. Borrower hereby transfers and assigns to Lender and grants to Lender a security interest in all of its right, title and interest in and to the Development Agreement, the TIF Note and the Tax Increments received from the Development Agreement (the “**Pledged Tax Increments**”). This Assignment shall constitute a perfected, absolute and present assignment, provided that Lender shall not have any right under this Assignment to enforce the provisions of the Development Agreement or exercise any other remedies under this

Assignment until an Event of Default (as defined in Section 8 hereof) shall occur. In furtherance of such transfer and assignment, on the date of this Assignment, Borrower shall deliver to Lender the original executed TIF Note together with an endorsement of the TIF Note in the form attached hereto as Exhibit B.

2. Representations and Warranties. Borrower represents and warrants to Lender and agrees as follows:

(a) Borrower will not, without the prior written consent of Lender, modify, amend, supplement, terminate, surrender or change in any manner whatsoever the Development Agreement or the TIF Note and will not release or discharge the obligations of any party thereto or modify or extend the time of performance thereunder or the scope of the work thereunder.

(b) The Development Agreement, the TIF Note and the Pledged Tax Increments are free and clear of all liens, security interests, assignments and encumbrances other than the assignment and security interest created by this Assignment.

(c) Subject to the consent of the City pursuant to the terms of the Development Agreement, Borrower has the full right, power and authority to assign the Development Agreement, the TIF Note and the Pledged Tax Increments free and clear of any and all liens, security interests and assignments.

(d) Borrower will keep the Development Agreement, the TIF Note and the Pledged Tax Increments free from any lien, encumbrance, assignment or security interest whatsoever, other than this Assignment and security interest.

(e) Borrower will from time to time and at the request of Lender execute such documents and pay the cost of filing and recording the same and do such other acts and things as Lender may request to establish and maintain a first priority perfected security interest in the Development Agreement, the TIF Note and the Pledged Tax Increments which is valid and superior to all liens, claims or security interests whatsoever.

(f) There have been no defaults on the part of City or Borrower under the Development Agreement.

3. Covenants of Borrower. Borrower covenants and agrees that:

(a) It shall perform each and every one of its duties and obligations under the Development Agreement and observe and comply with each and every term, covenant, condition, agreement, requirement, restriction and provision of the Development Agreement.

(b) It shall give prompt notice to Lender of any claim of or notice of default under the Development Agreement known or given to it together with a copy of any such notice or claim if in writing.

(c) At the sole cost and expense of Borrower, Borrower will enforce the full and complete performance of each and every duty and obligation to be performed by City under the Development Agreement and the TIF Note.

(d) It will appear in and defend any action arising out of or in any manner connected with the Development Agreement and the duties and obligations of Borrower or City thereunder.

4. Purpose of Assignment. This Assignment is made to induce Lender to make the Loans and for the purpose of securing the performance and observance by Borrower of all of the terms and conditions of the Loan Agreement and Notes and all other obligations of Borrower to Lender in connection with the Project.

5. Lender's Rights to Act on Behalf of Borrower; Payments under TIF Note. Borrower hereby authorizes Lender during an Event of Default to act on its behalf either in the name of Borrower or Lender in connection with the exercise of any of the rights of Borrower under the Development Agreement. Borrower hereby irrevocably constitutes and appoints Lender as its attorney-in-fact to demand, receive and enforce Borrower's rights with respect to the Development Agreement and the TIF Note. Borrower agrees to reimburse Lender on demand for any expenses incurred by Lender, or its agents or attorneys, pursuant to the aforesaid authorization. Borrower hereby irrevocably instructs, directs, authorizes and empowers all parties to the Development Agreement to recognize the claims of Lender, or its successors or assigns hereunder, and to act upon any instructions or directions of Lender without investigating the reason for any action taken by Lender. Pursuant to this Assignment the TIF Note has been registered in the name of the Lender and all payments due under the TIF Note shall be made directly to Lender.

6. No Assumption By Lender. It is understood and agreed that Lender does not assume any of the obligations or duties imposed upon Borrower under the Development Agreement and does not accept any responsibility or liability for the performance of any of the obligations imposed upon Borrower pursuant to the Development Agreement.

7. Scope of Assignment. The rights assigned by this Assignment include but are not limited to all of Borrower's interest in the Development Agreement, the TIF Note and the Pledged Tax Increments, including all right, power, privilege and option to modify or amend the Development Agreement or the TIF Note, or waive or release the performance or satisfaction of any duty or obligation under the Development Agreement or the TIF Note; provided, prior to any Event of Default, Borrower shall have the right to apply the Pledged Tax Increments for the purposes stated in the Development Agreement.

8. Event of Default. An "Event of Default" shall mean the occurrence of any Event of Default under the Development Agreement, the Declaration of Restrictive Uses dated on or about even herewith between Borrower and City, the TIF Note, the Loan Agreement, or any related documents.

9. Remedies. Upon the occurrence of an Event of Default, Lender may without demand or performance or other demand, advertisement, or notice of any kind, except such

notice as may be required under the Uniform Commercial Code and all of which are, to the extent permitted by law, hereby expressly waived, collect the amounts payable to Borrower pursuant to the Development Agreement or the TIF Note and shall hold such amounts free and clear of the interest of Borrower therein and shall be entitled to own, hold, dispose of and otherwise deal with the amounts payable pursuant to the Development Agreement and the TIF Note in its own right and name as its own property, or in the name of Borrower or otherwise, exercise any right of Borrower to demand, collect, receive and receipt for, compromise, compound, settle and prosecute and discontinue any suits or proceedings in respect of any or all of the amounts payable pursuant to the Development Agreement or the TIF Note; take any action that Lender may deem necessary or desirable in order to collect the amounts payable pursuant to the Development Agreement and the TIF Note, including, without limitation, the power to perform or direct the performance by any other party to any contracts which are a part of the Development Agreement; exercise any of the remedies available to a secured party under the Uniform Commercial Code and/or to proceed to protect and enforce this Assignment by suits or proceedings or otherwise; and to enforce any other legal or equitable remedy available to Lender. The foregoing remedies are cumulative of and in addition to and are not restrictive of or in lieu of, the rights or remedies provided for or allowed in the Loan Agreement or any other instrument given for the security of the Loan, or as provided for or allowed by law or in equity.

10. Self Help By Lender. Should Borrower fail to perform any of its duties and obligations under the Development Agreement, Lender may perform the same without obligation to do so and without releasing Borrower from its obligation to perform such duties and obligations, and to the extent that Lender shall incur any costs or pay any monies in connection therewith, including without limitation any costs or expenses of counsel for Lender, Borrower shall pay the same upon demand.

11. Indemnity. Lender shall have no obligation to perform or satisfy any duty or obligation of Borrower under the Development Agreement. Borrower shall and does hereby indemnify, defend and hold Lender harmless from and against and in respect of any and all actions, causes of action, suits, claims, demands, judgments, proceedings and investigations (or any appeal thereof or relative thereto or other review thereof) of any kind or nature whatsoever, arising out of, by reason of, as a result of or in connection with the Development Agreement or the TIF Note, and any and all liabilities, damages, losses, costs, expenses (including fees of counsel and expenses and disbursements of counsel), amounts of judgment, assessments, fines or penalties, and amounts paid in compromise or settlement, suffered, incurred or sustained by Lender as a result of, or reason of or in connection with any of the matters above.

12. Uniform Commercial Code. To the extent that this Assignment may be governed by the provisions of the Uniform Commercial Code now or hereafter in effect, this Assignment shall be deemed to be a security agreement within the meaning of the Uniform Commercial Code, shall be governed by the provisions thereof and shall constitute a grant to Lender of a security interest in the Development Agreement, the TIF Note and the Pledged Tax Increments.

13. Choice of Law. Notwithstanding the place of execution of this instrument, the parties to this Assignment have contracted for Wisconsin law to govern this Assignment and it is agreed that this Assignment is made pursuant to, and shall be construed and governed by, the laws of the State of Wisconsin without regard to the principles of conflicts of law.

14. Notices. Any notices and other communications permitted or required by the provisions of this Assignment (except for telephonic notices expressly permitted) shall be in writing and shall be deemed to have been properly given or served by depositing the same with the United States Postal Service, or any official successor thereto, designated as Certified Mail, Return Receipt Requested, bearing adequate postage, or deposited with a reputable private courier or overnight delivery service, and addressed as hereinafter provided. Each such notice shall be effective upon being deposited as aforesaid. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice sent. By giving to the other party hereto at least 10 days' notice thereof, either party hereto shall have the right from time to time to change its address and shall have the right to specify as its address any other address within the United States of America.

Each notice to Lender shall be addressed as follows:

Investors Community Bank  
2400 S. 44<sup>th</sup> St. PO Box 700  
Manitowoc, Wisconsin 54221  
Attention: Robert Seal

with a copy to:

Winthrop & Weinstine, P.A.  
Capella Tower  
225 South Sixth Street, Suite 3500  
Minneapolis, Minnesota 55402-4629  
Attn: Norman L. Jones

Each notice to Borrower shall be addressed as follows:

Doneff's Schuette Building LLC  
5160 Expo Dr., Suite 100  
Manitowoc, Wisconsin 554220  
Attn: Anton A. Doneff Sr.

with a copy to:

Reinhart, Boerne, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, Wisconsin 53202  
Attn: William R. Cummings

15. Successors and Assigns; Recording. This Assignment shall bind Borrower and its successors and assigns, and shall inure to the benefit of Lender and its successors and assigns. At the option of Lender, this Assignment may be recorded in the land records of Manitowoc County, Wisconsin.

16. Release. Upon a determination by the Lender that the obligations secured by this assignment have been fully satisfied, the Lender shall thereupon deliver to the Borrower such instruments of release as, in the opinion of the Borrower, may be necessary to release the interests of the Lender in the Development Agreement, the TIF Note and the Pledged Tax Increments.

[The remainder of this page has been left blank intentionally.]

IN WITNESS WHEREOF, Borrower has executed this Collateral Assignment of Development Agreement and Tax Increment Financing Note as of the date and year first written above.

**BORROWER:**

DONEFF’S SCHUETTE BUILDING LLC,  
a Wisconsin limited liability company

By: Doneff’s Schuette Building MM LLC  
Its Managing Member

\_\_\_\_\_  
By: Anton A. Doneff Sr.  
Its: Manager

STATE OF WISCONSIN            )  
  ) §§  
COUNTY OF \_\_\_\_\_        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of February, 2019, by \_\_\_\_\_, the \_\_\_\_\_ of Doneff’s Schuette Building LLC, a Wisconsin limited liability company, for and on behalf of said company.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission expires:

This instrument was drafted by:

Winthrop & Weinstine (MJD)  
225 South 6<sup>th</sup> Street, Suite 3500  
Minneapolis, Minnesota 55402





## ACKNOWLEDGEMENT AND CONSENT

The City of Manitowoc, Wisconsin (“City”) acknowledges and consents to the foregoing Collateral Assignment of Development Agreement and Tax Increment Financing Note dated as of February \_\_\_, 2019 (“Assignment”). Capitalized terms used herein and not otherwise defined herein shall have the meanings given to them in the Assignment. In connection with the Assignment, Authority hereby certifies to Lender as follows:

- 1) City acknowledges that it contemplates issuing the TIF Note in accordance with the terms of the Development Agreement. City further acknowledges that Lender, as the Assignee under the Assignment, has required this consent as a condition of making the Loans and that Assignee will rely on this consent in connection therewith.
- 2) Neither the Development Agreement nor the TIF Note have been amended or modified in any respect. The Development Agreement and the TIF Note are in full force and effect, and City has given no notice of any default thereunder. To the actual knowledge of the undersigned, Borrower has performed all of its obligations under the Development Agreement which are required to be performed as of the date hereof and Borrower is not in default in the performance or observance of any of its covenants or agreements under the Development Agreement or pursuant to any other agreement with City.
- 3) City agrees to give to Lender a copy of any notice of an Event of Default sent to Borrower, at the same time as such notice is given to Borrower under the Development Agreement, addressed as follows:

Each notice to Lender shall be addressed as follows:

Investors Community Bank  
2400 S. 44<sup>th</sup> St. PO Box 700  
Manitowoc, Wisconsin 54221  
Attention: Robert Seal

with a copy to:

Winthrop & Weinstine, P.A.  
Capella Tower  
225 South Sixth Street, Suite 3500  
Minneapolis, Minnesota 55402-4629  
Attn: Norman L. Jones

Each notice to Borrower shall be addressed as follows:

Doneff's Schuette Building LLC  
5160 Expo Dr., Suite 100  
Manitowoc, Wisconsin 554220  
Attn: Anton A. Doneff Sr.

with a copy to:

Reinhart, Boerner, Van Deuren S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, Wisconsin 53202  
Attn: William R. Cummings

Lender shall have the right to cure any default by Borrower under the Development Agreement upon the same terms as are applicable to Borrower.

- 4) Authority acknowledges that Lender is not responsible for the performance of Borrower's obligations under the Development Agreement and the acceptance of the Assignment by Lender does not constitute or create such an assumption of liability by Lender; provided, however this Acknowledgement and Consent of Authority does not release Borrower from its obligations under the Development Agreement.

16712971v3

[The remainder of this page has been left blank intentionally.]

THE CITY OF MANITOWOC, WISCONSIN

By: \_\_\_\_\_  
Its \_\_\_\_\_

By: \_\_\_\_\_  
Its \_\_\_\_\_

By: \_\_\_\_\_  
Its \_\_\_\_\_

Approved as to form

\_\_\_\_\_  
Assistant City Attorney

[Signature page to Acknowledgement and Consent to Collateral Assignment of  
Development Agreement and Tax Increment Financing Note]

**EXHIBIT A**

**LEGAL DESCRIPTION**

The East One-half (E1/2) of Lot Numbered Three (3); All of Lot Numbered Ten (10); and All of Lots Numbered Eleven (11) and Twelve (12), excepting therefrom a parcel described in Warranty Deed recorded in Volume 1469 of Records, Page 142, as Document Number 868046.

All in Block Numbered Two Hundred Thirty (230) of the Original Plat in the City of Manitowoc, Manitowoc County, Wisconsin, according to the Recorded Plat thereof.

Subject to highways, easements and rights-of-way of record.

Tax Parcel No: 052-000-230-120.00

Also known as 804 Jay Street and 914 South 8<sup>th</sup> Street, Manitowoc, Wisconsin

**EXHIBIT B**

**FORM OF ALLONGE ENDORSEMENT**

**ALLONGE TO:**

**CITY OF MANITOWOC, WISCONSIN, TAXABLE TAX INCREMENT REVENUE NOTE, TAX INCREMENT DISTRICT NO. 19 (SCHUETTE PROJECT), DATED DECEMBER 22, 2017, IN THE ORIGINAL PRINCIPAL AMOUNT OF \$1,290,260.00 PAYABLE TO THE ORDER OF DONEFF'S SCHUETTE BUILDING LLC OR ITS REGISTERED ASSIGNS**

Pay to the order of INVESTORS COMMUNITY BANK, a Wisconsin-chartered banking corporation.

**BORROWER:**

DONEFF'S SCHUETTE BUILDING LLC,  
a Wisconsin limited liability company

By: Doneff's Schuette Building MM LLC  
Its Managing Member

---

By: Anton A. Doneff Sr.  
Its: Manager

Dated February [ ], 2019